IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.5784/07
Smt. Sandhya Telang Vs. Muslim Hussain & Ors.

27.09.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Nitin Jain for petitioner.
Shri R.P. Vijay for respondent no.2.

This writ petition has been filed against the order dated 13.7.2007 whereby the evidence of the petitioner has been ordered to be closed on the premise that in spite of giving various opportunities, the petitioner failed to produce the witnesses. Petitioner Smt. Sandhya Telang is the owner of the vehicle which was destroyed in the accident.

In spite of service, claimant no.1 has chosen not to appear whereas the insurance company is represented by Shri

R.P. Vijay.

The learned counsel for the petitioner has argued that due to bonafide reasons, the petitioner could not produce the witnesses and she is now ready to produce all the witnesses on one single date, on which date the trial court may examine the witness, record their statements and also permit their cross examination. He has informed that the matter is fixed for final disposal by the MACT on the next date which is 1.10.2007.

In the facts of the case, I deem it appropriate to grant last opportunity to the petitioner because it is always appropriate to decide the matter on merits rather than for default of one of the parties. I, therefore, while setting

aside the order dated 13.7.2004, direct that the petitioner shall produce all his witnesses before the MACT on 1.10.2007, the date already fixed for recording their statements and also cross examination.

With these observations, the writ petition is allowed.

(Mohammad Rafiq),J.

Rs/-